author had combined a greater familiarity with the writings of European continental jurists, he would doubtless have preferred some of their generalizations to his own. And he would hardly have said, as he does on page 1, in reference to a branch of the law that has had a continuous development since the eighth century and a rich literature since the fourteenth, that "only within the present century"—of course he means the nineteenth—"has any regular form been imparted to the subject." Nor would he have asserted in his preface, in such a manner as to suggest that it is his own discovery, "the fact that the great foundation and basic principle of private international law is SITUS," if he had been aware that this same basic principle was formulated with equal emphasis by Savigny in 1849.

To a person well versed in the subject, Professor Minor's book will be found interesting and suggestive, for the reasons set forth in the opening lines of this review. To a student approaching the subject for the first time it is likely to prove, in the special matters above instanced and in some others, confusing and misleading.

CASES ON PRIVATE INTERNATIONAL LAW.—By John W. Dwyer, Instructor of Law in the Department of Law of the University of Michigan. George Wahr, Ann Arbor, 1899. pp. viii, 509, ix.

A volume of 500 pages, printed in fairly large type, leaded, does not give room for cases covering any very extensive portion of the field of Conflict of Laws. The cases in Mr. Dwyer's compilation, however, are at least well selected—each apparently justifying its inclusion, either because of the intrinsic importance of the point decided, or because of the extent to which other decisions are reviewed and discussed.

ELEMENTS OF AMERICAN JURISPRUDENCE. By William C. Robinson, LL.D. Boston: Little, Brown & Co. 1900. pp. cviii, 401.

It is no hasty compilation, but the slowly ripened fruit of a long life of thought and experience, which the modest and distinguished scholar, whose name this volume bears, has here presented to us. For upwards of a generation one of the few men in the English-speaking world who have devoted themselves exclusively to the study and teaching of law, for many years a center of influence and authority in the Yale Law School and now the dean of the law faculty of the Catholic University of America at Washington, a profound student of other systems of law than our own, versed in the philosophy of the schoolmen whose doctrines have had such a curious influence on common law speculation, Professor Robinson has reached a position of authority which insures him expectant as well as respectful hearing. Nor is that expectation disappointed in the little work before us. To say that it is the most notable single contribution which our own country has yet made to the formal science of law would be to damn it with faint praise. It is not too much to say that it ranks easily with the systematic treatises of Holland,

Markby and Pollock, and that, for the American student, it must supplant them. Less formal than the first of these, more analytical than the last two, it constitutes an admirable presentation of the science elaborated by them and adapted, with rare intelligence and discrimination, to the conditions of our American system. In its more formal portions it is orthodox enough, adhering generally to the classification of Holland and employing the familiar terminology of that writer. But our author is no slavish follower of the older masters of his science and does not hesitate—as in his independent treatment of International Law (§§ 166–174) and his subdivision of Public Law (§ 178)—to make his own classification.

Fundamentally, however, Professor Robinson is as far as possible from being an adherent of the analytical school in jurisprudence or in philosophy, as his learned discussion of the Nature and Authority of Law (§§ 1–8), and of the Origin of Rights (§ 120), and the frequent references to Lorimer's Institutes abundantly shows. Apart from this distinctive note, too profound and far reaching to be considered here, the book performs a real and, for America, an indispensable service in imparting new vitality to the time-honored distinction between the written and the unwritten law and in elevating it to its place among the fundamental classifications of jurisprudence. Its sound and lucid exposition of the modifications effected in our legal system by the Federal and State Constitutions (§§ 240–282 *et passim*) is altogether admirable. To be especially commended, also, are the chapters on the Interpretation of Law (§§ 283–303) and the Application of Law (§§ 304–364). Incidentally, the criticism and rejection of the pedantic phrase, Private International Law, to describe the jurisdiction of law commonly styled the Conflict of Laws, will bring comfort to many.

After this recital of its excellences, it will not be deemed invidious to call attention to one or two defects of this treatise. It may be matter of opinion whether the topic of *Status* is, or is not, entitled to 53 pages out of the 364 constituting the book, but it will hardly be denied that a classification of law according to its departments (§§ 388–402) is incomplete without some recognition of Quasi contract rights; and such rights, properly defined under that title in § 128, are by the very terms of that definition excluded from the category of Contractual rights, in which they are placed.

The book would have gained greatly in attractiveness and readability if its text were continuous and not broken up into numbered paragraphs, but this defect is, probably, more than counterbalanced by the suitability of this form of presentation to the needs of the student and the class-room, while the carefully selected list of readings appended to each section gives this arrangement a distinctive value.

But it is the title of the book, and not its arrangement and matter, which is likely to call forth adverse criticism. Holland's exclusive appropriation of the term Jurisprudence to the science of comparative or general jurisprudence will by many be regarded as a sufficient reason for condemning the use by Professor Robinson of the term American Jurisprudence, while others, who have, by giving

thought, emancipated themselves from that thraldom, will refuse to concede that the differentiation of the law of the Republic from that of the parent state is sufficient to justify the term. Though Professor Holland in the latest edition of his admirable treatise (noticed in the March number of this REVIEW) adheres to and justifies his definition, it has been too completely discredited by the criticisms of Sir Frederick Pollock and others to exercise any further authority over our minds. Indeed, contradicted as it is by the narrow scope of the work in which it appears, which deals only with the legal ideas of occidental states having a common history and development, it is strange that it should ever have imposed upon us. There may, then, be an Occidental jurisprudence, and, by the same token, an Anglo-American jurisprudence, and, if the latter, why not an American jurisprudence, recognizing as fundamental the peculiar constitutional system under which our legal institutions, ideas and principles are developing. That the differentiation of our legal system from that of England, or from that of Europe at large, is not complete, is surely no reason for denying effect to such differences as do exist, provided they are fundamental and inherent in the nature of our institutions and the structure of our government. The work is certainly a treatise on *jurisprudence*—dealing, that is to say, not with the body of legal rules, but with legal relations and principles. And as many of these principles and relations are peculiar to American society and American law, it is not easy to see by what other term it could be described than that adopted as the title of the book before us.

HISTORICAL JURISPRUDENCE.—An Introduction to the Systematic Study of the Development of Law. By Guy Carlton Lee, Ph. D., New York: The Macmillan Company. pp. xv, 517.

Regarded as a collection of essays on the legal systems of various ancient and modern nations, this book justifies its appearance, but not its title, nor the claims made for it by its learned author. It is not a treatise on historical jurisprudence, as that phrase is commonly understood, nor yet as it is defined by Dr. Lee, in his excellent introductory chapter—The Province of Historical Jurisprudence,—for it has little to say of the genesis of legal ideas and it makes no attempt to trace the development of those ideas in the progressive evolution of society. With the exception of an infrequent and tantalizing cross-reference—as from Babylonian baked clay to the Old Testament and Plutarch (page 27) and the too-general statement that the Persians "adopted to a large extent the Babylonian law" (page 49)—there is no attempt at a comparative study of legal ideas or institutions, nor any examination of the philosophical bases on which the various systems taken under review rests,—still less of those fundamental conceptions, common to all systems, on which human law and justice rest. Indeed the theme, as conceived by the author, is too vast to be dealt with in a volume of 500 pages otherwise than in the superficial and sketchy manner in which it is presented to us here.